

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6224

BILL NUMBER: SB 165

NOTE PREPARED: Mar 15, 2007

BILL AMENDED: Mar 15, 2007

SUBJECT: Venture Capital Investment Tax Credit.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR: Rep. Orentlicher

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill provides that a taxpayer is not entitled to a Venture Capital Investment Tax Credit for providing investment capital after December 31, 2012. (Current law provides that a taxpayer is not entitled to a credit for providing investment capital after December 31, 2008.)

The bill repeals the expiration date for the Hoosier Business Investment Tax Credit.

Effective Date: July 1, 2007.

Explanation of State Expenditures:

Explanation of State Revenues: (Revised) *Venture Capital Investment (VCI) Tax Credit:* The bill extends the VCI Tax Credit by four years by changing the current expiration date from December 31, 2008, to December 31, 2012. The bill would allow the Indiana Economic Development Corporation (IEDC) to award up to \$12.5 M annually in new tax credits for four additional years beginning in 2009. So far, the IEDC has awarded \$7.4 M in VCI credits for 2004, \$3.4 M in VCI credits for 2005, and \$1.9 M in VCI credits for 2006. In addition, 296 individual income taxpayers claimed \$2.6 M in VCI credits on 2005 tax returns. The amount of VCI credits claimed in 2005 by corporate income taxpayers is unknown.

Hoosier Business Investment (HBI) Tax Credit: The bill eliminates the sunset date for the HBI Tax Credit. Under current statute, the HBI Tax Credit expires on December 31, 2011. This would allow the IEDC to award new tax credits for qualified investment occurring in 2012 and after. The potential amount of new credits that might be awarded by the IEDC beginning in 2012 and the proportion of these awarded credits that ultimately might be claimed against state tax liability by taxpayers in subsequent years is indeterminable.

The IEDC awarded \$331.7 M in new credits in 2004 (the first year of the HBI Tax Credit) and \$152.8 M in new credits in 2005. The amount of new credits awarded by the IEDC in 2006 is unavailable at this time. In addition, 53 individual income taxpayers claimed \$1.2 M in HBI credits on 2005 tax returns. The amount of HBI credits claimed in 2005 by corporate income taxpayers is unknown.

Background: Venture Capital Investment (VCI) Tax Credit: The VCI Tax Credit is a nonrefundable tax credit equal to the lesser of: (1) 20% of qualified venture capital investment (debt or equity capital) provided to a qualified Indiana business during a calendar year; or (2) \$500,000. The IEDC is responsible for certifying businesses as qualified to receive creditable venture capital investment and for certifying the tax credit amounts to investors in these businesses. The tax credit is allowed for venture capital investment made from January 1, 2004, to December 31, 2008. Under current law, a taxpayer may claim the credit against the State Gross Retail and Use Tax, Adjusted Gross Income (AGI) Tax, Financial Institutions Tax, or Insurance Premiums Tax liability. While the tax credit is nonrefundable, it may be carried forward for up to five years. No carryback of the tax credit is allowed. Total new credits that could be certified by the IEDC for investment in 2004 was limited to \$10 M. This annual credit limit was increased to \$12.5 M beginning in 2005. A taxpayer must provide the venture capital investment to the qualified company within two years to obtain the tax credits. Unused credits that are carried forward by taxpayers are not counted toward the \$12.5 M annual maximum.

Since 2004, 126 businesses have been certified by the IEDC as qualified to receive venture capital investment for which the investors could claim VCI credits. A total of \$12.7 M in VCI credits have been awarded to investors by the IEDC. A total of 296 individual income taxpayers claimed \$2.6 M in VCI credits on 2005 tax returns. The amount of VCI credits claimed in 2005 by corporate income taxpayers is unknown. The table below outlines the activity in the VCI credit program. Each qualified business proposes an amount of venture capital that it will raise and the IEDC allocates a credit amount to the business based on the proposed investment amount. Once an investor makes venture capital investment in a qualified business, credits allocated to that business are awarded to the investor. The credits can, at that point, be claimed by the investor against state tax liability. While the IEDC has annually allocated an amount of credits to qualified businesses in excess of the annual credit limit, the total credits that could be awarded to and claimed by investors may not exceed the annual credit limit.

	2004	2005	2006
Qualified Businesses	39	38	49
Credits Allocated	\$16.0 M	\$10.7 M	\$13.2 M
Credits Awarded	\$7.4 M	\$3.4 M	\$1.9 M

Hoosier Business Investment (HBI) Tax Credit: Under current statute, the IEDC Board is authorized to award the nonrefundable HBI Tax Credit for expenditures on qualified investment determined to foster job creation and higher wages in Indiana. The IEDC is currently authorized to award the HBI Tax Credit for qualified investment made before January 1, 2012. (Note: The expiration date was extended from December 31, 2007, to December 31, 2011, under P. L. 137-2006.)

The maximum credit that the IEDC may award is 10% of the qualified investment. A taxpayer may claim the credit against the Adjusted Gross Income (AGI) Tax, Insurance Premiums Tax, or Financial Institutions

Tax liability. Prior to May 15, 2005, the maximum allowable credit was 30% of qualified investment. However, the 30% credits may be claimed only against the growth in the taxpayer's tax liability over a specified base year tax liability. The base year is either (1) the tax liability in the immediately preceding tax year or (2) the tax liability in the tax year immediately preceding the tax year in which the qualified investment was made by the taxpayer, whichever makes the computed difference larger. The HBI Tax Credit is nonrefundable and may not be carried back. Unused tax credits may be carried over for up to nine years after the year in which the investment is made, unless a shorter carryover period is stipulated by the IEDC Board.

Approximately \$331.7 M in new credits under the 30% credit program was awarded in 2004, the first year of the HBI Tax Credit. In 2005, approximately \$137.8 M in new credits was awarded under the 30% credit program, and approximately \$15.0 M in new credits was awarded under the current 10% credit program. Also, in 2005, the IEDC certified approximately \$55.3 M in credits already awarded under the 30% credit program, signifying that the taxpayer had made the agreed upon qualified investment and could claim the certified amount of credits against the taxpayer's tax liability growth. No credits awarded under the 10% credit program were certified in 2005.

A total 53 individual income taxpayers claimed \$1.2 M in certified tax credits on 2005 tax returns. The amount claimed by corporate income taxpayers in 2005 is unknown. In addition, the amount of new tax credits awarded by the IEDC in 2006 and the amount of tax credits certified by the IEDC in 2006 is unavailable at this time.

Pertinent Revenue Distributions: Sales Tax revenue is distributed to the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%). Revenue from the Individual AGI Tax is distributed to the state General Fund (86%) and the Property Tax Replacement Fund (14%). Revenue from the Corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Indiana Economic Development Corporation; Department of State Revenue.

Local Agencies Affected:

Information Sources: Gretchen White, Indiana Economic Development Corporation, (317) 234-3997. Bob Walls, Department of State Revenue, (317) 232-2104. *Hoosier Business Investment Tax Credit Project Status Report, 2004 and 2005*, Indiana Economic Development Corporation.

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